

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X Civil Case No.:
JERMAINE COLEMAN,

Plaintiff,

VERIFIED COMPLAINT

-against-

Trial by Jury Demanded

THE UNITED STATES OF AMERICA, UNITED
STATES POSTAL SERVICE and MARCOS MARTINEZ,

Defendants.

-----X

Plaintiff, by his attorneys, SALERNO & GOLDBERG, P.C., complains of the defendants
alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff is a resident of Bronx County, State of New York and resides within the
Southern District of New York. Venue is, therefore proper in this Court.

2. This action, as against the United States of America, arises under the Federal Tort
Claims Act, 28 U.S.C. §1346(b), for money damages as compensation for personal injuries,
hospital and medical expenses, that were caused by the negligent and wrongful acts and
omissions of employees of the United States Government while acting within the scope of their
offices and employment, under the circumstances where the United States, if a private person,
would be liable to the plaintiff in accordance with the laws of the State of New York.

3. Plaintiff has fully complied with the provisions of 28 U.S.C. §2675 of the Federal
Tort Claims Act.

4. That this suit has been timely filed, in that the plaintiff timely served his notice of
his claim on the United States Postal Service on October 22, 2021. The National Tort Center,
United States Postal Service assumed responsibility for processing the claim on behalf of the
agency, and more than six (6) months have elapsed since said administrative claim has been filed

with no adjudication of said claim, thereby permitting suit to be instituted without final action on the claim.

5. Venue is founded in this judicial district based on 28 U.S.C. § § 1391 (e) (2) and 1402(b), as the acts complained of occurred in this district.

PLAINTIFF

6. The plaintiff is a United States Citizen and is a resident of the County of Bronx, State of New York.

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF

7. That at all times hereinafter mentioned, the United States Postal Service (hereinafter USPS), was and still is a federal agency of defendant, UNITED STATES OF AMERICA.

8. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing license plate number 7533809.

9. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing registration number 7533809.

10. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing department vehicle number 7533809.

11. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021, see Exhibit “A” Police Report

attached hereto.

12. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

13. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

14. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

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16. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle bearing registration number 7533809.

17. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle bearing department vehicle number 7533809.

18. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle that was involved in a motor vehicle accident on March 27, 2021.

19. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

20. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

21. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the owner of a motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

22. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the registrant of a motor vehicle.

23. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle bearing license plate number 7533809.

24. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle bearing registration number 7533809.

25. That at all times hereinafter mentioned, defendant, UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle bearing department vehicle number 7533809.

26. That at all times hereinafter mentioned, defendant UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle that was involved in a motor vehicle accident on March 27, 2021.

27. That at all times hereinafter mentioned, defendant UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

28. That at all times hereinafter mentioned, defendant UNITED STATES OF

AMERICA, was the registrant of USPS motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

29. That at all times hereinafter mentioned, defendant UNITED STATES OF AMERICA, was the registrant of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

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35. That at all times hereinafter mentioned, defendant UNITED STATES OF AMERICA, was the registrant of a motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

36. That at all times hereinafter mentioned, defendant UNITED STATES OF AMERICA, was the registrant of a motor vehicle bearing department vehicle number 7533809

that was involved in a motor vehicle accident on March 27, 2021.

37. That at all times hereinafter mentioned, the USPS, was the owner of a USPS motor vehicle.

38. That at all times hereinafter mentioned, the USPS, was the owner of a USPS motor vehicle bearing license plate number 7533809.

39. That at all times hereinafter mentioned, the USPS, was the owner of a USPS motor vehicle bearing registration number 7533809.

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44. That at all times hereinafter mentioned, the USPS was the owner of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

45. That at all times hereinafter mentioned, the USPS, was the registrant of a USPS motor vehicle.

46. That at all times hereinafter mentioned, the USPS, was the registrant of a USPS motor vehicle bearing license plate number 7533809.

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49. That at all times hereinafter mentioned, the USPS, was the registrant of a USPS motor vehicle that was involved in a motor vehicle accident on March 27, 2021.

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51. That at all times hereinafter mentioned, the USPS, was the registrant of a USPS motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

52. That at all times hereinafter mentioned, the USPS, was the registrant of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

53. That at all times hereinafter mentioned, the USPS, was the owner of a motor vehicle.

54. That at all times hereinafter mentioned, the USPS, was the owner of a motor vehicle bearing license plate number 7533809.

55. That at all times hereinafter mentioned, the USPS, was the owner of a motor

vehicle bearing registration number 7533809.

56. That at all times hereinafter mentioned, the USPS, was the owner of a motor vehicle bearing department vehicle number 7533809.

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58. That at all times hereinafter mentioned, the USPS was the owner of a motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

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61. That at all times hereinafter mentioned, the USPS, was the registrant of a motor vehicle.

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67. That at all times hereinafter mentioned, the USPS, was the registrant of a motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

68. That at all times hereinafter mentioned, the USPS, was the registrant of a motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

69. That at all times herein mentioned, defendant MARCOS MARTINEZ, was an employee and/or agent or servant of the USPS.

70. That at all times herein mentioned, defendant MARCOS MARTINEZ, was an employee and/or agent or servant of the UNITED STATES OF AMERICA.

71. That at all times herein mentioned, defendant MARCOS MARTINEZ, was an employee and/or agent or servant, while acting within the scope and course of his employment with the USPS.

72. That at all times herein mentioned, defendant MARCOS MARTINEZ, was an employee and/or agent or servant, while acting within the scope and course of his employment with the UNITED STATES OF AMERICA.

73. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle.

74. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing license plate number 7533809.

75. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing registration number 7533809.

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80. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021.

81. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle that was involved in a motor vehicle accident on March 27,

2021, with the knowledge, permission and consent of the owner.

82. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

83. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

84. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing department vehicle number 7533809 that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

85. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle within the scope of his employment for defendant, USPS.

86. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle within the scope of his employment for defendant, UNITED STATES OF AMERICA.

87. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing license plate number 7533809, within the scope of his employment for defendant, USPS.

88. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the

operator of a USPS motor vehicle bearing license plate number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

89. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing registration number 7533809, within the scope of his employment for defendant, USPS.

90. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing registration number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

91. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing department vehicle number 7533809, within the scope of his employment for defendant, USPS.

92. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a USPS motor vehicle bearing department vehicle number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

93. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle.

94. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing license plate number 7533809.

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101. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

102. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing license plate number 7533809 that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

103. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing registration number 7533809 that was involved in a motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

104. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing department vehicle number 7533809 that was involved in a

motor vehicle accident on March 27, 2021, with the knowledge, permission and consent of the owner.

105. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle within the scope of his employment for defendant, USPS.

106. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle within the scope of his employment for defendant, UNITED STATES OF AMERICA.

107. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing license plate number 7533809, within the scope of his employment for defendant, USPS.

108. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing license plate number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

109. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing registration number 7533809, within the scope of his employment for defendant, USPS.

110. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing registration number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

111. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing department vehicle number 7533809, within the scope of his employment for defendant, USPS.

112. That at all times herein mentioned, defendant MARCOS MARTINEZ, was the operator of a motor vehicle bearing department vehicle number 7533809, within the scope of his employment for defendant, UNITED STATES OF AMERICA.

113. That on March 27, 2021, and at all times hereinafter mentioned, plaintiff JERMAINE COLEMAN owned and operated a motor vehicle bearing New York State license plate number 8916891R.

114. That at all times herein mentioned, Freeman Street, in the County of Bronx, City and State of New York, was and still is a public thoroughfare.

115. That on March 27, 2021, plaintiff, JERMAINE COLEMAN, was the operator of his motor vehicle bearing New York State license plate number 8916891R at the aforesaid location.

116. That on March 27, 2021, the aforementioned USPS motor vehicle operated by defendant MARCOS MARTINEZ came into contact with the motor vehicle owned and operated by plaintiff JERMAINE COLEMAN at the aforesaid location.

117. That on March 27, 2021, the aforementioned USPS motor vehicle operated by defendant MARCOS MARTINEZ struck the motor vehicle owned and operated by plaintiff JERMAINE COLEMAN at the aforesaid location.

119. That on March 27, 2021, the aforementioned motor vehicle operated by defendant MARCOS MARTINEZ came into contact with the motor vehicle owned and operated by plaintiff JERMAINE COLEMAN at the aforesaid location.

120. That on March 27, 2021, the aforementioned motor vehicle operated by defendant MARCOS MARTINEZ struck the motor vehicle owned and operated by plaintiff JERMAINE

COLEMAN at the aforesaid location.

121. That as a result of the aforementioned contact, plaintiff, JERMAINE COLEMAN, was caused to sustain, serious, severe and permanent personal injuries.

122. That the defendant, UNITED STATES OF AMERICA, its agents, servants and/or employees were negligent and careless in the ownership, operation, management, supervision and control of the aforementioned USPS motor vehicle; in failing to keep a proper lookout on the aforementioned roadway; in failing to observe the conditions then and there existing on the aforementioned roadway; in failing to properly use signaling devices; in failing to pay attention to the traffic on the aforementioned roadway; in applying and/or failing to apply its brakes in a timely fashion; in negligently and carelessly sideswiping the driver's side of plaintiff's vehicle; in negligently and carelessly striking plaintiff's vehicle on the rear driver's side; in failing to see that which was to be seen; in failing to look; in having improper hiring practices; in having improper retention practices; in failing to properly investigate the qualifications and/or backgrounds of USPS prospective employees, and more particularly, defendant MARCOS MARTINEZ; and in otherwise being negligent and careless in the happening of the aforementioned accident.

123. That the foregoing accident and resultant injuries were caused by reason of the negligence of the defendants, their agents, servants and/or employees, and without any negligence on the part of the plaintiffs, contributing thereto.

124. That as a result of the foregoing, plaintiff, JERMAINE COLEMAN, has suffered a serious personal injury as defined by § 5102(d) of the Insurance Law of the State of New York, resulting in basic economic loss and non-economic loss as defined by § 5104 of the Insurance

Law of the State of New York and economic loss greater than basic economic loss, as defined by § 5102(a) of the Insurance Law of the State of New York.

125. That plaintiff, JERMAINE COLEMAN, is not seeking to recover any damages for which plaintiff has been reimbursed by no-fault insurance or worker's compensation and/or for which no-fault insurance or worker's compensation is obligated to reimburse the plaintiff. Plaintiff is only seeking to recover those damages not recoverable through no-fault insurance or worker's compensation under the facts and circumstances in this action.

126. That this action falls within one or more of the exceptions as set forth in New York CPLR §1602.

127. Plaintiff JERMAINE COLEMAN demands judgment against the defendants in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF PLAINTIFF

128. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint herein as though more fully set forth herein at length.

129. That on March 27, 2021, and at all times hereinafter mentioned, plaintiff JERMAINE COLEMAN owned the motor vehicle bearing New York State license plate number 8916891R.

130. That as a result of the negligence of the defendants, as aforesaid, plaintiff JERMAINE COLEMAN sustained substantial property damage to plaintiff's vehicle, and has been greatly damaged thereby.

131. Plaintiff JERMAINE COLEMAN demands judgment against the defendants in the amount of FIVE THOUSAND (\$5,000.00) DOLLARS.

WHEREFORE, plaintiff demands judgment against the defendants in the First Cause of Action on behalf of plaintiff JERMAINE COLEMAN in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS; in the Second Cause of Action on behalf of JERMAINE COLEMAN in the amount of FIVE THOUSAND (\$5,000.00) DOLLARS; together with interest on such damages according to law, costs and disbursements of this action, and for such other and further relief the Court deems just and proper.

Dated: Deer Park, New York
July 12, 2022

SALERNO & GOLDBERG, P.C.

By: /s/ Linda Simmons.
LINDA SIMMONS (LS-5269)
Attorneys for Plaintiff
1955 Deer Park Avenue
Deer Park, New York 11729
(631) 482-8888
Email: Linda@lawteamny.com

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

I, the undersigned, an attorney admitted to practice in the courts of New York State, state that:

1. I am an associate of the law firm of Salerno & Goldberg, P.C., the attorneys of record for plaintiffs in the within action.

2. I have read the foregoing VERIFIED COMPLAINT and know the contents thereof. The same is true to my own knowledge, except as to those matters therein alleged to be on information and belief, and as to those matters I believe it to be true.

3. The reason this verification is made by me and not by the Plaintiff herein is because the Plaintiff does not reside in the County of Suffolk in which said law firm is located.

4. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: based on records and documents in deponents possession and conversations had with plaintiff.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: July 12, 2022

/s/ Linda Simmons
LINDA SIMMONS

Case No.:

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JERMAINE COLEMAN,

Plaintiff,

-against-

UNITED STATES OF AMERICA, UNITED STATES POSTAL SERVICE
and MARCOS MARTINEZ,

Defendants.

VERIFIED COMPLAINT

SALERNO & GOLDBERG, P.C.
Attorneys for Plaintiff
1955 Deer Park Avenue
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